

REMARKS

In view of the above amendments and the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1-2, 4, 6-7, 9 and 11-50, the only claims pending and currently under examination in this application.

In the above amendments, Claims 6, 41 and 46 have been amended to clarify the claims. As the above amendments introduce no new matter to the application, the Examiner is respectfully requested to enter these amendments.

An objection has been raised to with respect to Claims 6 and 42. In view of the above amendments, this rejection may be withdrawn

Claims 1-2, 6, 16, 21, 31, 37, 42, 45 and 46 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Johannson. However, an element of all of these rejected claims is "a cartridge that includes said first and second fluid reservoirs." As such, to anticipate the claims, the disclosure must teach a device that includes both fluid reservoirs in a single cartridge. Such an element is not present in the cited Johannson reference. Accordingly, this rejection may be withdrawn.

Next, Claims 1-2, 4, 6-7, 9, 15-19, 21-29, 33-36, 42-45 and 50 have been rejected under 35 U.S.C. § 103(a) as being obvious over Delaney in view of Johannson.

It is noted that both Delaney and Johannson qualify as prior art to the present application under 35 U.S.C. § 102(e) only.

35 USC § 103(c), MPEP § 706.02(I)(1) states:

Effective November 29, 1999, subject matter which was prior art under

former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), continued prosecution application filed under 37 CFR 1.53(d), and reissues.

As such, the changes to 35 U.S.C. §103 apply to all utility patent applications filed on or after November 29, 1999. The instant application was filed on August 24, 2000, which is after November 29, 1999, §103(c) as set out above applies to the instant application. Thus, if the cited Johansson and Delaney patents and the instant application were owned by the same person or subject to an obligation of assignment to the same person, at the time the instant application was made, the Johansson and Delaney patents are not available as prior art under 35 USC §103.

This is indeed the case. The invention claimed in the instant patent application was subject to an obligation of assignment to Corazon Technologies. An assignment executed by the inventors was recorded on August 24, 2000 (Reel/Frame 011119/0812).

The Delaney patent was owned by Corazon Technologies at the time the claimed invention in that patent was made, as evidenced by an assignment recorded on January 6, 2000 (Reel/Frame 010523/0101).

The Johansson patent was owned by Corazon Technologies at the time the claimed invention in that patent was made, as evidenced by an assignment recorded on January 30, 2001 (Reel/Frame 011537/0932).

Thus, as stated in §103(c), the subject matter of the cited Johansson and

Delaney patents and the claimed invention were, at the time the invention was made, all owned by Corazon Technologies or both under an obligation of assignment to Corazon Technologies. As such, the Delaney and Johannson patents shall not preclude patentability under §103.

Therefore, the Delaney and Johannson patents are not available as prior art against the claimed invention of the present application. Therefore, the claims of the instant application cannot be rejected by a combination that relies upon the Johannson and Delaney patents.

Accordingly, the rejection of Claims 1-2, 4, 6-7, 9, 15-19, 21-29, 33-36, 42-45 and 50 under 35 U.S.C. § 103(a) as being obvious over Delaney in view of Johannson may be withdrawn.

Next, Claims 21 and 46 have been rejected under 35 U.S.C. § 103(a) as being anticipated by Emig. However, the claims are limited to ones in which the dissolution fluid is an organic matter or inorganic matter dissolution fluid. Emig fails to teach or suggest either type of the specified dissolution fluids. As such, Emig does not teach or suggest this element of claims and this rejection may be withdrawn.

Next, Claims 1-2, 4, 6-7, 9, 12-19, 42-45, 47 and 50 were rejected under 35 U.S.C. §103(a) as obvious over Emig in view of Mische, for the asserted reason that Emig teaches all of the elements of the claims but for the multi-lumen catheter, which element is assertedly made up by Mische. **However, as pointed out above, Emig fails to teach or suggest the specifically enumerated dissolution fluids.** As Mische is cited solely for the element of the multi-lumen catheter, Mische fails to make up this fundamental deficiency in Emig. Accordingly, Claims 1-2, 4, 6-7, 9, 12-19, 42-45, 47 and 50 are not obvious under 35 U.S.C. §103(a) over Emig in view of Mische and this rejection may be withdrawn.

Finally, Claims 11, 20, 22, 30-41 and 48-40 were rejected under 35 U.S.C.

§103(a) as obvious over Emig in view of Mische, and further in view of Frey, for the asserted reason that Emig and Mische teach all of the elements of the claims but for the cartridge, which element is assertedly made up by Frey. However, as pointed out above, **Emig fails to teach or suggest the specifically enumerated dissolution fluids**. As Mische is cited solely for the element of the multi-lumen catheter and Frey for the cartridge, Mische and Frey fail to make up this fundamental deficiency in Emig. Accordingly, Claims 11, 20, 22, 30-41 and 48-40 are not obvious under 35 U.S.C. §103(a) over Emig in view of Mische and Frey and this rejection may be withdrawn.

Conclusion

In view of the above amendments and remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issue.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815.

Respectfully submitted,

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